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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/743,751 | 12/24/2003 | George W. Jackson | 12963-17 | 8936 |

1059 7590 10/05/2004

BERESKIN AND PARR
SCOTIA PLAZA
40 KING STREET WEST-SUITE 4000 BOX 401
TORONTO, ON M5H 3Y2
CANADA

EXAMINER

ADDIE, RAYMOND W

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3671

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/743,751

Applicant(s)

JACKSON, GEORGE W.

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the adjustable pivot connector comprises a pivot pin" in Ins. 1-2. There is insufficient antecedent basis for this limitation in the claim. It is indefinite as to whether Claim 2 is introducing additional structural elements, in the form of an adjustable pivot connector, or if Claim 2 is further limiting the upper pivot pin, or the adjustable axial engagement mechanism, recited in Claim 1.

For examination; the adjustable pivot connector recited in Claim 2, is seen to refer back to the adjustable axial engagement mechanism, recited in Claim 1.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horen # 5,865,410.

Horen discloses a universal staging bracket capable of use as a bridge overhang bracket, comprising:

An elongate top member (22) having inner and outer ends.

An elongate diagonal member (40) having inner and outer ends, the outer end being pivotably attached to the outer end of the top member (22).

Upper and lower pivot joints (24, 44, 50) secured to the top and diagonal members respectively. Adjacent the inner ends thereof.

An elongate side member (18) extending between and engaged with the upper and lower pivot points (24, 44).

Wherein at least one of the pivot joints (50) comprises an adjustable axial engagement mechanism (64/48) for adjusting the position along the length of the top member; at which the at least one pivot joint (50) engages the top member, thereby adjusting the length of the diagonal member. See Fig. 1; Col. 2, ln. 40-col. 3, ln. 22.

What Horen does not disclose is locating the adjustable axial engagement mechanism upon the side member (18), which is of fixed length.

However, it would be obvious to one of ordinary skill in the art, that the flexural strength of a triangular bracket, is based in part, upon the length of the side member, which determines the length and vertical position of where the diagonal member contacts a girder or other support, at element (20).

Hence, it would have been obvious to one of ordinary skill in the art, to relocate the adjustable axial engagement mechanism (48, 64) to the side member (18), in order to adjust the length of the side member and the diagonal member, thereby customizing the flexural strength of the bracket assembly.

In regards to Claims 2, 3 Horen discloses the adjustable axial engagement mechanism, further comprises the upper pivot pins (48, 50), which are mounted in the top and diagonal members (22, 40). Wherein the pivot pins have an aperture for receiving the adjustable axial engagement mechanism and the diagonal member respectively.

In regards to Claim 4 Horen discloses the adjustable axial engagement mechanism, further comprises a bolt and nut assembly (64), which could be relocated to incorporate the side member (18), in order to make the side and diagonal members adjustable.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to relocate the adjustable axial engagement mechanism, to incorporate the side member, in order to customize the positioning of the contact bar (20), thereby accommodating support surfaces of varying height, and for providing sufficient flexural strength to the overhang support bracket. See cols. 3, 4, ln. 18.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horen # 5,865,410 in view of Ward # 3,806,074.

Horen discloses a universal staging bracket capable of use as a bridge overhang bracket, comprising:

An elongate top member (22) having inner and outer ends.

An elongate diagonal member (40) having inner and outer ends, the outer end being pivotably attached to the outer end of the top member (22).

Upper and lower pivot joints (24, 44, 50) secured to the top and diagonal members respectively. Adjacent the inner ends thereof.

An elongate side member (18) extending between and engaged with the upper and lower pivot points (24, 44).

Wherein at least one of the pivot joints (50) comprises an adjustable axial engagement mechanism (64/48) for adjusting the position along the length of the top member; at which the at least one pivot joint (50) engages the top member, thereby adjusting the length of the diagonal member. See Fig. 1; Col. 2, ln. 40-col. 3, ln. 22.

What Horen does not disclose is locating the adjustable axial engagement mechanism upon the side member (18), which is of fixed length.

However, Ward discloses there are job site applications that necessitate the use of an overhang-type bracket having top, side and diagonal members (126/170, 130, 132)

respectively; to have both adjustable side (132) and diagonal members (130), such as the presence of upper and lower support girders (16, 16'). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the overhang support bracket, of Horen, with adjustable side and diagonal members, as suggested by Ward, in order to accommodate job site applications. See col. 8, Ins. 53-67.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bruce # 1,965,686 discloses a concrete-form support. Murdock # 2,195,579 discloses a scaffold bracket. Peters # 3,776,498 discloses a scaffold bracket. Franco et al. # 5,318,148 discloses a scaffold platform bracket. Horstketter # 4,660,800 discloses a bridge overhang bracket and hanger assembly. Payne # 5,755,981 discloses a bridge overhang system.

Art Unit: 3671

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2, 6-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas Will
Supervisory Patent Examiner
Group 3600

RWA
9/30/2004